

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Prentice Wheatley,

Civil No. 12-1950 (DWF/AJB)

Petitioner,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Commissioner Tom Roy,

Respondent.

The above matter comes before the Court upon the Report and Recommendation of Chief United States Magistrate Judge Arthur J. Boylan dated October 29, 2013 (Doc. No. 15). No objections have been filed to that Report and Recommendation in the time period permitted. The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. Based upon the Report and Recommendation of the Magistrate Judge, and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

ORDER

1. Chief Magistrate Judge Arthur J. Boylan's Report and Recommendation (Doc. No. [15]) is **ADOPTED**.

2. Petitioner's application for habeas corpus relief under 28 U.S.C. § 2254 (Doc. No. [1]) is **DENIED**.

3. Petitioner's Motion for Conviction to Be Vacated, New Trial, or Evidentiary Hearing (Doc. No. [2]) is **DENIED AS MOOT**.

4. This action is **DISMISSED WITH PREJUDICE**.
5. Petitioner will **NOT** be granted a Certificate of Appealability.

Dated: November 26, 2013

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge